

Chapter 4 – CERTIFICATION

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1.1.0 Introduction

This chapter contains policies for regulating childcare providers.

Childcare subsidy payments are only authorized to regulated childcare providers, with a few exceptions. Licensing is not required for most informal care settings, because informal care settings don't meet the licensing threshold of caring for four children under the age of seven who are not related to the provider. Providers exempt from licensing must meet health and safety standards to be certified. "Regulated" means childcare either certified by the county/tribal agency, licensed by the state or operated by a public school board.

1.2.0 Licensed Providers

A license is required when a provider both:

- Cares for four or more children under age seven who are not related to the provider.
- Receives compensation.

Licensing is done by the State, through the Department of Health and Family Services (DHFS), through its regional offices.

Schools are exempt from licensing. Care in the child's own home is also exempt. Private and parochial schools are exempt from licensing, unless W-2 childcare funds are used. In this case, licensing is required in order to qualify for reimbursement. Public schools, which operate childcare programs, are not required to be licensed or certified and are eligible for W-2 childcare reimbursement. If a provider is not required to be licensed, but wishes to be certified, document application procedures and certification standards must be met.

However, some family homes are licensed as group childcare centers.

There are three categories of licensed childcare:

1. Group childcare centers are licensed to provide care and supervision to nine or more children. Usually, this is care in a more formal setting outside the home.
2. Family childcare centers serve four to eight children.
3. Day camps. If a day camp is providing care for four or more children under the age of seven, licensing is required. In order for a day camp to receive W-2 subsidy, it must be licensed by the state or certified by the county.

In the past, the regional licensing offices have certified school age programs. As of April 1, 2000, certifying agencies have been

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responsible for certifying school age programs in coordination with the regional licensing office.

1.2.1 School Age Programs

School age programs requesting certification under DWD 55.09 must apply to the certifying agency. The application process for a school age certification program is the same as the application process for certified family day care. The certifying agency will gather:

- Written application form and standards and checklist for school age programs
- Complete caregiver background check information for all staff and substitutes/volunteers
- References
- Verification of the required insurance
- Building inspection report
- Water tests (if water is not from a public water system)
- Policies regarding health, nutrition, discipline, and emergencies, including the plan for evacuation
- Pet vaccinations against rabies

When all of the appropriate items in a – h above have been gathered and the program is ready for a site visit, the certifying agency will contact the regional licensing office and send them a copy of the application and the checklist.

A licensing specialist will conduct the initial site visit prior to certification and determine whether the applicant is in compliance with all standards under DWD 55.09. Specifically, the licensing specialist will verify staff files are complete, with the following information:

- Name, address, date of birth of employee, and position
- Education, including documentation of education requirements for the position
- TB skin test
- Background Information Disclosure form (HFS 64) completed within the last four years
- Name, address and telephone number of person to contact in case of an emergency
- Name and address of employers in previous work experience in childcare

School age programs are encouraged to use the Day Care – Staff Record (CFS-53) as a tool to keep staff information. Certifying agencies should make these forms accessible to school age programs at the time of application.

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Certifiers are strongly encouraged to join the licensing specialist when the site visit is conducted. If there were any non-compliance issues, it would be helpful for the certifier to be aware of them in order to be able to later verify the violation has been corrected satisfactorily.

The licensing specialist will report the outcome of the site visit to the certifying agency in writing. If there are any non-compliance issues, the licensing specialist will report non-compliance items on the Non-Compliance Statement and Correction Plan form (CFS-294).

The certifying agency is responsible for issuing a certificate based on the licensing specialist's report. If the licensing specialist has reported any non-compliance issues, it will be the responsibility of the certifying agency to conduct any other follow up site visits in order to verify the program is in compliance before a certificate may be issued.

The school age certification program must be re-certified every two years and it is the responsibility of the certifying agency to initiate this process. The application, standards and checklist, etc. must be completed. The certifying agency is responsible for all other site visits. The licensing specialist may be contacted as a resource when the certifier has questions or concerns regarding the school age program meeting any of the requirements. The renewal visits are conducted by the certifying agency.

When a complaint is received against a school age program, the complaint should be documented using Certification Complaint Intake form (DES-811). The certifying agency will be responsible for the investigation of all complaints. The regional licensing office may be contacted regarding the complaint and the licensing specialist and certifier may coordinate in the investigation. The certifier shall complete the Certification Complaint Investigation Report on Findings/Recommendations form (DES-811-A).

1.2.2 School Age Program Forms

The application, standards and checklist, certificate, and site visit report forms that are specific to school age certification are now available from DWD. **See** 3.6.0, how to access certification forms.

The school age child care standards are intended for center-based programs which are not required to be licensed, because they do not provide care for four or more children under the age of seven. A certified school-age program may enroll three children that are under the age of seven years. The children under age seven years would have to be at least five years old and in kindergarten or a higher grade. School age certification is not to be applied to family day care settings.

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School age programs should be paid at the licensed group rate, if they are caring for children funded by the subsidy program.

1.3.0 County Certification

State law (48.651) requires counties/tribes to certify providers who receive public funding, unless the provider is state licensed or established and operated by a school board. DWD establishes the standards for day care certification. Counties and tribes have the authority to contract with another agency to certify providers. All administrative rules for certification are available in [DWD 55, Subchapter VI] Wis. Admin. Code. You can download a copy of the certification rules at <http://www.legis.state.wi.us/rsb/code/dwd/dwd011.html>.

Copies of the certification rules can be ordered from DWD. **See** 3.6.0 for further information.

Agencies may certify homes for other purposes such as:

1. USDA Child Care Food Program.
2. To develop a resource pool of regulated providers.
3. To increase parental options.

1.3.1 Certification worker training

A set of new certification rules went into effect on June 1, 2002. The new rule requires certification workers to attend a department approved training, within six months of hire or taking over certification duties. "Day care certification worker" is defined as a person employed by a county/tribe or an agency, under contract with a county or tribe, whose duties include determination of eligibility for day care certification.

Certification Basic Policy and Procedure training are listed on the New Worker central at <http://www.dwd.state.wi.us/destrain/imnwcentral/>.

1.3.2 Certification Fees

A county/tribal agency may charge a fee for day care family and school age certification. The fee cannot exceed 150 percent of the licensing fee for similar programs. The costs for the completion of the criminal background checks can be charged to the provider, in addition to the certification fee. The fee may not exceed the reasonable cost of obtaining the information.

1.3.3 Valid Certification

Certification issued by a county/tribal agency shall be accepted as valid by all other agencies authorized to certify. The agency responsible for certification is determined by the geographic area in which the childcare is provided.

Sample: If a provider is a resident in County A, but is going to provider care in a child's home in County B (In-home care approved by subsidy), County B will be responsible for certifying that home.

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1.3.4 In the Child's Home

In-home care is provided in the child's own home. When a provider cares for children in the children's own home, the requirements marked with a star (*) in the standards and checklist do not apply.

The licensing law does not apply to in-home care situations. This means the provider may care for more than three unrelated children under the age of seven years. If non-residential children are brought to this home, the regular certification group rules apply.

1.3.5. One provider per location
policy

Only one provider can be certified for any one location. The maximum length of care cannot exceed 16 hours in a 24-hour period. Certifying agencies may grant exemptions to this rule on a case by case basis, if the certifying agency determines an alternative means meets the intent of the requirement.

The rationale for the 16-hour rule is to assure the responsible certified provider is alert and attentive children are not in care for excessive hours and to allow for hours in the certified home, during which the provider can relax and sleep. The intent is also to be consistent with DHFS licensing policy for family childcare of one licensee at a site.

A provider who requests to be approved for 24-hour care must meet the following guidelines, in order to be considered for an exemption:

- The request must be in writing
- There must be a second provider, called "substitute," who will be in charge for the hours beyond 16. The substitute does not have to be certified, but must meet similar qualifications as primary provider (initial training, continuing education, SIDS training, clear caregiver background check, and TB-test).
- The provider must document how s/he is going to meet the intent of the rule preventing burnout and assuring quality of care throughout the day.
- The provider must submit work schedules indicating when the primary provider and the substitute are in charge. The schedule must include days and times.
- The provider must submit schedules for enrolled children, including name, date of birth, days and hours of care.
- The provider must document the substitute understands the certification rules and agrees to follow them.

The primary provider will be responsible for any violations or liability issues in the certified home, even if the violations occur during hours when the substitute provider is in charge. Only the primary provider will be entered into the childcare payment system and all authorizations will be made to this provider. The substitute provider

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		will be considered an employee of the primary provider who will be responsible for any tax liabilities incurred.
1.3.6	Substitute policy	<p>The substitute policy has been revised. If a substitute is used on a regularly scheduled weekly basis, the substitute no longer needs to be certified, but must meet the same qualifications as the “substitute” mentioned in 1.3.4 above (training, continuing education, SIDS, background checks, and TB-test). Before a regular substitute may be hired, the provider must get approval from the certifying agency.</p> <p>An emergency back-up provider or an occasional substitute does not have to meet the above requirements.</p>
1.3.7	Certified Providers	<p>These providers must be certified, in order to be reimbursed by the child care subsidy program:</p> <ol style="list-style-type: none">1. Family Child Care- Family childcare providers can care for up to three unrelated children under the age of seven. Additional children related to the childcare provider and children ages 7 through 12 (if special needs up to 19) may be cared for as long as the maximum number of children are not over six.2. School Age ChildCare Programs- School age childcare programs serve seven or more school age children ages 7-11. After the application process is completed, refer school-age programs to the Regional Licensing Office for an inspection to determine if certification standards are met. <p>Agencies must complete health and safety home inspections and determine compliance with standards for certified family childcare and in-home certified care. These providers are certified under one of the following classifications:</p> <ol style="list-style-type: none">1. Provisionally Certified (level II) – meets all standards, but has not completed the required 15-hour training.2. Regularly Certified (level I) – meets all standards and has completed 15 hours of required training.
1.3.8	Related to the Provider	<p>“Related to the provider” means: the provider’s natural or adopted children, foster children, stepchildren, grandchildren, brothers, sisters, first cousins, nephews, nieces, uncles and aunts.</p>

1.3.9 Maximum Number in Certified Care

Related children under age 7	Non-related children under age 7	Other children 7 and older	Maximum number of children
0	3	Additional children ages 7 through age 12 (if special needs up to 19) may be cared for as long as the maximum total number of children is not exceeded.	6
1	3		6
2	3		6
3	3		6
4	2		6
5	1		6
6	0		6

Ages of the children can be preschool, school-aged or both.

The maximum number of children a provider can care for does not include the provider's natural, adopted or foster children aged seven or older. The following table shows the maximum number of children allowed in certified care, if children under age two are present, including the provider's own children and relatives under the age of two.

Number of children under age 2	Maximum number of children
0	6
1	6
2	6
3	5
4	4

It is not allowable for a certified provider to care for four children under the age of two, unless one or more of the children is a related child.

By law, a license is required when a provider cares for four or more unrelated children under age seven for compensation. Agencies cannot grant exceptions to the licensing law.

When providing in-home child care, a certified provider is able to care for more than three children living in a home under the age of seven, because a license is not required for caring for children in his/her own home.

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2.1.0 Application

The county/tribal agency is responsible for certifying:

1. Family childcare providers who are not required to be licensed.
2. In-home providers.
3. School-age sites serving children seven and older.

Refer applicants other than family, in-home or school-age child care providers to the Regional Licensing Office. The Regional Office determines if the provider meets applicable licensing standards.

2.2.0 Orientation

The county/tribe must provide information on childcare and the certification system to applicants prior to initial certification. The information shall include materials on sudden infant death syndrome (SIDS), child development, positive discipline, health and safety, and nutrition. **See 3.7.0 Resources**, where to get information on the topics mentioned above.

This information can be given in various forms:

- Individually.
- By phone or in person.
- In group meetings for potential providers.
- In packets of printed materials.

The certification information should include:

1. Certification materials, including the rule book, application form, background check, and Certification Standards and Checklist.
2. The importance of giving names of references who are familiar with the caregiver's ability to care for children. The references must be non-related to the provider.
3. Information on how to obtain training.
4. Home or site requirements, including smoke detectors, well-water tests and pet vaccinations.
5. Type of certification.
6. Number of children allowed in care during one time period.
7. Information about day care licensing from s. 48.65.

Information videotapes, brochures and handouts are available from the Wisconsin Child Care Information Center (1-800-362-7353).

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NAEYC has inexpensive pamphlets on the topics listed above. **See** 3.7.0 for resources.

2.3.0 Backdating Certification

Once eligibility for certification has been made, payment for services provided can be backdated to the date of application. This can be done, if care was provided for a family that was determined eligible for child care subsidy and chose an unregulated provider who was willing to become certified and the certification determination was completed within 60 days of the application date. If the provider has cooperated with providing all information and the certification agency is not able to complete the certification within 60 days, an extension can be made to allow time to complete the process. This allows certification to be backdated to the date of application. The determination of an extended application processing timeline is made by the certifying agency on a case by case basis.

2.4.0 Provider Qualifications

Use the following to evaluate provider qualifications:

1. References- Require reference names, addresses and phone numbers of at least two separate persons unrelated to the provider who can attest to the applicant's good character and ability to care for children. These help ensure s/he is appropriate to care for children. Contact references by letter or phone. Invite them to comment on the applicant's ability to care for children. Obtain information from references prior to certification. References are required for new applicants. A certifying agency may require updating of references at re-certification.
2. Statement from other regulating agencies: If an applicant holds a license and/or certificate to care for children or adults, a statement that indicates the regulating agency approves day care operation from the home is required. Samples of these types of licenses include, but are not limited to, foster care, adult care, etc. The statement must include permission for the caregiver to release information necessary for a criminal history record search for residents and clients in the applicant's home.
3. Landlord notification: If the childcare is provided at a rental property, the provider shall obtain permission from his/her landlord to operate a childcare business. Permission is required, if the provider is relocating to a different rental property. This permission is not required at renewal, unless the provider is relocating.
4. Child Abuse and Neglect Files- Information from files on child abuse and neglect substantiated findings against applicants, employees and prospective employees, including substitutes, contractors and non-client residents 12 years of age or older.

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Contact your county Child Protective Services (CPS) for records on child abuse and neglect. The information in CPS files is of a confidential nature. Counties or tribes that contract certification to non-county agency must develop a procedure on how this information can be shared with the certifying agency.

5. Caregiver Background Check- The provider and their employees, contractors and non-client residents 12 years of age or older must complete a Background Information Disclosure Form (HFS-64). This form identifies criminal convictions and pending criminal charges which may affect the care of children or activities in the home. For persons under 18, either the parent or the minor may sign the form.

The certifying agency is responsible for conducting a background investigation of the applicant, any employee or prospective employee of the provider, contractor and all non-client residents 12 years of age or older. Complete the background investigation through the Department of Justice (DOJ) and the Department of Health and Family Services (DHFS).

This process must be completed at application and at least every four years thereafter.

2.4.1 Caregiver Background
Check

The Background Information Disclosure (BID) form must be completed by all providers and their employees, contractors and non-client residents 12 years old and older. Upon review of the BID, look for any pending or convictions for crimes or any offenses that would be a bar with rehabilitation on the offenses list or that substantially relate to the job of caring for children.

If the BID indicates an applicant has had a rehabilitation review, the agency must request, from the applicant, a copy of the rehabilitation decision. The agency shall verify this information with the DHFS Office of Legal Counsel. The agency shall determine if an approval is acceptable as applicable for certification. If there was not an approval of rehabilitation, the agency shall determine whether the applicant is eligible for and may seek another rehabilitation review and inform the applicant.

Obtain caregiver background information by filling out the Criminal History Record Request that can be obtained through the DOJ or the caregiver background web site **www.dhfs.state.wi.us/caregiver/index.htm**. Check the “Caregiver-Day Care” box and fill in the “agency number” on the form. Return the record request with payment for each record check to DOJ.

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Caregiver Background Checks can now be requested via the Internet using the Department of Justice (DOJ) web site. The background checks requested through the web will enable certifiers to receive the criminal history from DOJ, in most cases, in the same day as requested. The caregiver background history (the IBIS letter) from the Department of Health and Family Services (DHFS) is also available on-line.

An agency must have an account and a PIN in order to request a record check through the web site. An agency may obtain an account by completing the Wisconsin Criminal History Account Application form DJ-LE-251. Once an agency has an account with DOJ, a PIN can be requested in writing to DOJ on agency letterhead. The request for PIN should be sent to:

Crime Information Bureau
Attn: Record Check Unit
P.O. Box 2688
Madison, WI 53701-2688

For more information, logon to the Crime Information Center webpage at: <http://wi-recordcheck.org/>

Certification can be granted for up to 60 days pending the receipt and satisfactory review of the criminal background check information. However, the Background Information Disclosure (BID) form and all other application materials must be received and must show the provider meets all certification requirements. When less serious crimes, acts or offenses are indicated on the BID that are not a bar with rehabilitation, the certifying agency shall ensure appropriate precautionary measures are taken to ensure children are protected. This may mean delaying issuance of certification, until the background check is completed.

Certifying agencies have the option to withhold certification, until after the background information has been received. Complete the review of the background information, when the information is received.

The certifying agency may charge a fee for obtaining the information required under s. 48.651(2), Stats. for the criminal background checks through the DOJ. The fee may not exceed the reasonable cost of obtaining the information.

2.4.1.1 Background Check
Process

The certifying agency is responsible for conducting a background investigation of the provider applicant and their employee or prospective employee, contractor or prospective contractor and all non-client residents who are 12 years old and older. The background check must include an investigation of the following:

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1. The records maintained by the DOJ and, if applicable, from the records maintained by a Native American tribal court.
2. Information maintained by the Department of Regulation and Licensing regarding the status of the person's credentials, as they relate to the care and treatment of a client.
3. Information maintained by the county department and DHFS regarding any substantiated reports of child abuse or neglect or misappropriation of property and/or information found in the nurse's aid registry against the person.
4. Information maintained by DHFS regarding any denial to the person of a license, continuation of a license, certification or a contract, approval to operate an entity, or denial to the person of employment at a contract with or permission to reside at an entity for any of the following reasons:
 - The person has been convicted of a serious crime or adjudicated delinquent on or after his or her 12th birthday for committing a serious crime.
 - A unit of government or a state agency has made a finding that the person has abused or neglected any client or misappropriated property of any client.
 - A determination has been made that the person has abused or neglected a child.
 - In the case of a position for which the person must have credentials by the Department of Regulation and Licensing, the person's credentials involve direct client care or treatment services and are not current or are limited, so as to restrict the person from providing adequate care to a client.

2.4.1.2 Additional Searches

If a person who is the subject of a background history search is not a resident of this state or if at any time within the last three years preceding the date of the search has not been a resident of this state, the certifying agency shall make a good faith effort to obtain from the state(s) in which the person was a resident, within the past three years, information that is equivalent to the criminal history information that is provided by the Wisconsin DOJ.

It is very hard to conduct a background record check in some states. The Volunteers for Children Act (VCA) allows "qualified agencies" to receive criminal history information from the FBI National Database will include information on serious crimes from any state in the USA. All law enforcement units in the USA are mandated to send information on serious misdemeanor and felony offenses to this national database. The database includes about 40 million names. This database also includes information from "closed" states.

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Agencies who are interested in qualifying for the Volunteers for Children Act (VCA) must submit an application to DOJ. The form is available at: **www.doj.state.wi.us/dles/cib/forms**. Click on “VCA Account Information” link. According to the CIB, childcare certifying agencies do qualify to run the VCA checks.

To run checks through this database, a print of the right index finger is needed. After the agency is approved as “qualifying agency”, the DOJ will provide the agency with fingerprint cards. The fingerprinting should be done at a local police station. The cost for the entire check is \$34.00 DOJ will send the request to the FBI and once the check is returned to DOJ, they will send the requesting agency a copy of a “rap sheet” or “no record” response. The time line for a request is usually 1-2 weeks.

The Wisconsin Caregiver Manual can be helpful when determining a person’s eligibility for certification. This manual can be found at the caregiver background check web site at **http://www.dhfs.state.wi.us/caregiver/pdf/Cover_TOC.pdf**. The manual also lists information for out-of-state record checks.

If a person, who is the subject of a background history search, was in a branch of the U.S. armed forces, including any reserve component within the past three years, the agency must make a good faith effort to obtain the discharge status of that person. The discharge status can be in the form of discharge papers (DD214) issued to the person or from the armed forces branch in which the person served. If the discharge status is other than honorable, the agency must obtain information on the nature and circumstances of the discharge.

2.4.1.3 Filing

The certifying agency shall maintain, on file, the most recent Background Information Disclosure form and information gathered from the background check. Information gathered from the background check on juvenile records shall be kept confidential in compliance with federal and state confidentiality laws.

2.4.1.4 Penalties

A provider who fails to give the certifying agency the names of all the persons that require a background check completed or who knowingly and intentionally provides false information or who omits information on the BID may be required to forfeit not more than \$1000.00 and may be subject to denial, revocation or suspension of certification.

2.4.1.5 Records

Arrest and conviction records are public records. Agencies may wish to use local law enforcement agencies to check criminal backgrounds, as a supplement to the DOJ checks.

Arrest and conviction information is also available at the Wisconsin Circuit Court Automation Program (CCAP) web site at

<http://ccap.courts.state.wi.us> This web site provides Criminal Summary Reports for most Wisconsin counties. It is an easy-to-use system that allows access with the individual's first and last name. The records include the individual's date of birth, address, charge description, associated statute, severity (felony or misdemeanor), disposition date, case status and more.

A search on CCAP that fails to find a criminal record does not mean the person does not have a record. Information obtained via the Circuit Court Automation Program shall not be used in lieu of the caregiver background checks which are required by law.

Consider criminal records only if there is a conviction or pending charge that is a bar with rehabilitation on the offense list or substantially relates to circumstances of the particular job or regulated activity. Arrests which do not lead to convictions (for example: charges that are dismissed) are not relevant criminal records.

- 2.4.1.6 Sanctions Under Caregiver Background Check Upon review of the background information, the certifying agency will need to determine if any of the crimes listed are a bar with rehabilitation or substantially related to the job of caring for children or the activities and operation of a child care program. Where there are less serious offenses, limitations can be put on the certificate.

The Caregiver Law (HFS 12) makes frequent referrals to 48.685. In order to completely understand the law, you must read HFS 12 parallel with the Chapter 48. Wisconsin Statutes and Administrative Code can be found at **www.legis.state.wi.us**. A copy of HFS 12 and 48.685 is included in the Appendix.

According to the Caregiver Law (HFS 12), certification shall not be granted if:

1. A person who has been convicted of or has been adjudicated delinquent on or after his or her 12th birthday for a serious crime that is listed under the Bar with Rehabilitation tier in the crimes list until they have demonstrated rehabilitation. The rehabilitation review process is described in a later section
2. If a governmental agency has made a finding that an applicant, employee, prospective employee, contractor or a non-client resident 12 year and older has abused or neglected a child.

These substantiated abuse and neglect findings usually do not result in criminal charges. A person who has a substantial child abuse/neglect finding must be approved by a rehabilitation review

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board before certification can be granted. The rehabilitation review process is described in a later section

Certification may not be granted to a person who has been convicted of committing a crime, act or offense or who has been adjudicated delinquent on or after his or her 12th birthday for committing a crime, act or offense, if that crime substantially relates to the care of children. Certain criteria must be met in order to show the crime, act or offense is substantially related to the care of children.

Criteria used to determine if the crime, act or offense substantially relates to the care of children or the activities and operation of child care program minimally includes:

1. How the crime, act or offense relates to the job of caring for children. The nature and scope of the person's contact, discretionary authority and degree of independence in judgment relating to decisions or actions which affect the care of children. The opportunity the person has to commit similar offenses. The extent to which acceptable job performance requires the trust and confidence of children and their parent or guardian. The amount and type of supervision received, while children are being cared for.
2. What the crime, act or offense was and the elements or circumstances. Whether intent is an element of the offense. Whether the elements or circumstances of the offense are substantially related to the job duties involved with caring for children. Whether there is a pattern and the extent to which the offense relates to vulnerable persons. Whether the crime involves violence or the threat of violence or is of a sexual nature.
3. The individual's background. The number and type of offenses for which the individual has been convicted, the length between conviction(s), the employment history, including references, if available, the participation in or completion of pertinent programs of a rehabilitative nature, the probation or parole status, the ability of the individual to provide care consistent with the safe and efficient operation of certification rules and requirements, and the confidence of children served, including parents and guardians, and the age of the individual on the date of the conviction.

The Caregiver Law does not cover pending charges. If a new applicant (or a resident in the home) has a pending charge of a serious crime or crime that substantially relates to childcare, the agency may deny certification by quoting DWD 55 certification rules. A reference to HFS 12.06 and/or 48.685 is recommended. If

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a currently certified provider (or a resident in the home) is charged with a serious crime or a crime that substantially relates to the care of children, the agency may suspend the provider, until the outcome of the charge has been established.

When an applicant or current provider is denied or revoked, due to an offense on the “bar with rehab” list, the certifying agencies must report these cases to the Office of Child Care (OCC) by using the CFS-2191 “HFS 12 Negative Action” form. A copy of this form is in the DHFS web site at:

<http://www.dhfs.state.wi.us/caregiver/index.htm>. OCC will ensure these cases are entered into the denial database, so they will be included in the caregiver check in the future.

Less stringent measures, other than a denial of certification approval, may be imposed where less serious crimes, acts or offenses, that do not bar or bar with rehabilitation from certification committed by a person, are found to be substantially related to the care of children. The certifying agency shall impose, as applicable and appropriate, special precautionary measures on persons seeking certification or their employees, contractors or non-client residents who are 12 years old and older having contact with children.

Precautionary measures may include as appropriate:

1. Conditions such as: prohibitions on certain activities or functions, no repeat of crimes, acts or offenses, submission of necessary and relevant statements from therapists or counselors on person being fit and qualified for regulatory function or job task where appropriate, prescribed limited contact or supervised contact with children in care, and so on.
2. Closer supervision or special supervision arrangements, such as partnering with another person not having any background history problems.
3. Medication monitoring.
4. Prior evaluation and recommendations from appropriate professionals, i.e., psychiatrists, psychologists, etc.
5. Restrictions to certain on-premises activities, locations or time periods.
6. Not transporting children in care.
7. Periodic alcohol or drug testing.

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It is important that any special conditions or restrictions are in writing. If a stipulation is used, the stipulation should be signed by the involved parties, as well as the certifier.

2.4.1.7 Denials/Revocations

Below is a chart that illustrates sample reasons for denials/revocations and which rule and the appeal method the certifying agency should use.

Reason for sanction			Appeal process	
	Caregiver Law	DWD 55	Rehab. Review	Chapter 68
Offense listed on the crime list (bar with rehab)	X		X	
CPS or other governmental agency substantiated abuse or neglect	X		X	
Offense that substantially relate to child care	X			X
Failure to report conviction of any crime, being investigated for an offense or child abuse.	X			X
Failure to report license denial, revocation or restriction	X			X
Failure to report a new resident	X			X
Failure to submit BID form or submit false information	X			X
Non-compliance with certification rules		X		X
References and community information does not support provider's declaration that s/he can provide acceptable level of childcare.		X		X
The certifying agency determines there is danger to the health, safety or well-being of the children in care.		X		X

2.4.1.8 Offense List

This is a list of Offenses Affecting Caregiver Eligibility current as of September 2000. The offense list is not exhaustive. If someone has a conviction for a crime in another state or jurisdiction or the crime statute number or crime name has changed, the agency must determine which crime listed below is identical or most similar to the crime for which the person was convicted. If the offense is not listed below, the agency must determine whether the conviction for the crime is substantially related to the duties of the position before the person may be employed, contracted with, given approval to reside in an entity as a non-client, or otherwise granted regulatory approval.

The following is not the complete offense list as seen on the caregiver web site

[Http://www.dhfs.state.wi.us/caregiver/index.htm](http://www.dhfs.state.wi.us/caregiver/index.htm). This is the portion of the offense chart that applies to day care certification.

2.4.1.9 Offenses List

Chapter HFS 12

APPENDIX A
OFFENSES AFFECTING CAREGIVER ELIGIBILITY

SEPTEMBER 2000

INTRODUCTION

This document lists Wisconsin crimes and other offenses that the Wisconsin State Legislature, under the Caregiver Law, ss. 48.685 and 50.065, Stats., has determined either require rehabilitation review approval before a person may receive regulatory approval, may work as a caregiver, may reside as a nonclient resident at or contract with an entity, or that act to permanently bar a person from receiving regulatory approval to be a foster parent.

NOTE: This table reflects changes in the caregiver law made by 1999 Wisconsin Act 9.

If a person has been convicted of a crime in another state or jurisdiction, the entity or regulatory agency must locate, on the table below, the Wisconsin crime that is identical or most similar to the crime for which the person was convicted and apply the consequence identified. This instruction also applies if the person was convicted in Wisconsin, but the statute number or crime title has been changed or amended. For example, convictions under Chapter 961, the Uniform Controlled Substances Act, were previously convictions under Chapter 161.

Notwithstanding s. 111.335, Stats., ss. 48.685(5m) and 50.065(5m), Stats., permit a regulatory agency to deny regulatory approval or an entity to refuse to employ, contract with or permit to reside at the entity a person whom the regulatory agency or entity determines has been convicted of a crime that is "substantially related" to the care of a client. The agency or entity may review a conviction to make that determination when: (a) The person has been convicted in Wisconsin or another state or jurisdiction of any crime that is not listed in this appendix; or (b) The person has been convicted of a crime that is listed in part III. of this appendix for foster care purposes only.

Under the Caregiver Law, current limitations on a person's professional credentials may limit the person's eligibility for employment or licensure in a position for which the person must be credentialed by the Department of Regulation and Licensing.

If a Background Information Disclosure form, a caregiver background check, or any other information shows a person was convicted of any of the offenses immediately below, within five years before the information was obtained, the department, county department, child welfare agency, school board, or entity, as applicable, shall make every reasonable effort to contact the clerk of courts to obtain a copy of the criminal complaint and judgment of conviction relating to that conviction.

940.19 (1)	Misdemeanor battery
940.195	Battery to an unborn child
940.20	Battery, special circumstances
941.30	Reckless endangerment
942.08	Invasion of Privacy
947.01	Disorderly conduct
947.013	Harassment

II. Entities and Programs Serving Any Clients Under the Age of 18	
CONVICTIONS	
Regulatory approval, employment as a caregiver and nonclient residency at and contracting with an entity are prohibited, until rehabilitation approval is received, for all entities and programs that serve any clients who are under the age of 18. (For additional federal foster care bars, see part III. below.)	
Wis. Stats.	Crime
940.01	1st degree intentional homicide
940.02	1st degree reckless homicide
940.03	Felony murder
940.05	2nd degree intentional homicide
940.12	Assisting suicide
940.19 (2) through (6)	Battery (felony)
940.22 (2) or (3)	Sexual exploitation by therapist; duty to report
940.225 (1), (2), or (3)	1st, 2nd, or 3rd degree sexual assault
940.285	Abuse of vulnerable adults (misdemeanor or felony)
940.29	Abuse of residents of a penal facility
940.295	Abuse or neglect of patients & residents (misdemeanor or felony)
948.02 (1) or (2)	1st or 2nd degree sexual assault of a child
948.025	Repeated acts of sexual assault of same child
948.03 (2) (a), (b), or (c)	Physical abuse of a child – intentional causation of bodily harm
948.05	Sexual exploitation of a child
948.055	Causing a child to view or listen to sexual activity
948.06	Incest with a child
948.07	Child enticement
948.08	Soliciting a child for prostitution
948.11 (2)(a) or (am)	Exposing child to harmful material or harmful descriptions or narrations (felony)
948.12	Possession of child pornography
948.13	Child sex offender working with children
948.21 (1)	Neglect of a child – resulting in death (felony)
948.30	Abduction of another's child; constructive custody
OTHER OFFENSES	
---	Finding, by a governmental agency, of neglect or abuse of a client or of misappropriation of a client's property
---	Finding, by a governmental agency, of child abuse or neglect

2.5.0 Rehabilitation Review Process

2.5.1 Rehabilitation Review
Authority

The county is responsible for conducting the rehabilitation review process for the provider and persons employed by, contracted with and who reside with the provider who have a bar with rehabilitation crime as indicated in the Offenses Affecting Caregiver Eligibility list and who meet the eligibility requirements. Rehabilitation reviews must be completed in accordance with the provisions of HFS 12.12.

Any tribe that chooses to conduct rehabilitation reviews shall submit to the Department of Health and Family Services (DHFS) a rehabilitation review plan that includes all of the following:

- The criteria to be used to determine if a person has been rehabilitated.
- The title of the person or body designated by the tribe to whom a request for review must be made.
- The title of the person or body designated by the tribe to determine whether a person has been rehabilitated.
- The title of the person or body designated by the tribe to whom a person may appeal an adverse decision made by the person specified under subd. 3 and whether the tribe provides any further rights to appeal.
- The manner in which the tribe will submit information relating to a rehabilitation review to the Department, so the Department may include that information in its report to the legislature.
- A copy of the form to be used to request a review and a copy of the form on which a written decision is to be made regarding whether a person has demonstrated rehabilitation.

If, within 90 days after receiving the plan, the Department does not disapprove of the plan, the plan shall be considered approved. If, within 90 days after receiving the plan, the Department disapproves of the plan, the Department shall provide notice of that disapproval to the tribe in writing, together with the reasons for the disapproval. The Department may not disapprove of a plan, unless the Department finds the plan is not rationally related to the protection of clients. If the Department does disapprove of the plan, the tribe may, within 30 days after receiving notice of the disapproval, request the Secretary review the Department's decision.

2.5.2 Request for
Rehabilitation

A person who has been convicted of, or who was adjudicated delinquent on/after his/her 12th birthday for committing a serious crime listed on the offenses list shall be offered by the certifying agency and may request a rehabilitation review. A person eligible for rehabilitation review and who wishes to seek rehabilitation review must make a written request to a county department on a DHFS Rehabilitation Review Application Request form and show under his/her burden of proof, by clear and convincing evidence, that s/he is rehabilitated from all reasons applicable. Use the Rehabilitation Review Application Form (EXS-263).

2.5.3 Eligibility

The rehabilitation review process is applicable only if:

- The person has been convicted of a serious crime identified on the offense list as a crime where rehabilitation review is required.
- The person has a substantiated finding of abuse or neglect of a client or misappropriation of the property of a client as determined by a government or state agency.
- The person has a substantiated finding of abuse or neglect of a child.
- Where a credential is required by the Department of Regulation and Licensing or other similar authority and the person's credentials are not current or are limited, so as to restrict the person from providing adequate care.

When the rehabilitation process is applicable, a person may request rehabilitation review, if s/he has not requested a rehabilitation review for a similar type of regulatory approval or job function or activity or non-client resident status within the last year.

2.5.4 Review Procedures

Upon receipt of a complete rehabilitation application review request, the agency shall appoint a review panel of at least two persons to inquire, gather and review, as necessary, any other relevant information from agencies and persons identified in the written application.

Representatives will be selected by the county department. The review panel shall give the applicant requester an opportunity to appear before the review panel to provide answers to questions the review panel may have that may be needed in rendering a rehabilitation decision.

2.5.5 Rehabilitation Decision

The review panel shall render a decision based upon the applicant requester's ability to present under his/her own burden of proof clear and convincing evidence of his/her rehabilitation based upon, but not limited to, as applicable, the following guidelines:

1. Favorable personal reference checks and favorable comments from other persons and agencies identified in the written application of the requester.
2. Successful completion of parole, probation, incarceration, or work release privileges.
3. Person is free from encounter with law enforcement or civil enforcement agencies.
4. Aggravating or mitigating circumstances to the reason or reasons for the crime, act or offense.

5. Further evidence of rehabilitation, such as public or community service, volunteer work, recognition by other public or private authorities for accomplishments or efforts, and so on.
6. Favorable statements from therapists, counselors and other professionals.
7. Attempts or efforts at restitution.
8. Victim's impact statement.
9. Ability to remain employed evidences ability to develop positive social interaction and increased independence or autonomy of daily living and so on.

2.5.6 Decision Response

The agency's review panel shall render a written decision in accordance with the criteria used to make the rehabilitation decision to the requester.

1. If the decision is an approval, it shall describe the scope of the rehabilitation approval with any conditions or limitations that may be prescribed. For example, whether the approval is only for certain job functions, activities or arrangements. The decision shall also identify what type of regulatory approval has been given and any conditions or limitations that may be prescribed.
2. If the decision is not to approve the rehabilitation request, the agency review panel's written response must explain the reasons for non-approval and inform the applicant s/he has the right to file an appeal on the decision as follows:
 - Any person who is permitted but fails to demonstrate to the review panel that he/she has been rehabilitated may appeal to the director of the county department or designee. The appeal must be submitted in writing within ten days of receipt of the decision.
 - Any person adversely affected by a decision of the director or designee has the right to appeal the decision under Ch. 68.

The review panel shall maintain, on file, the rehabilitation review request application and all materials requested in that application and any other materials or information or notes obtained as a part of the rehabilitation review decision and a copy of the written decision, along with any decisions from filed appeals that may result.

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The agency must also report all applicable steps of rehabilitation review process to the Office of Legal Counsel using the Rehabilitation Review Panel Decision Report (EXS-264). This includes:

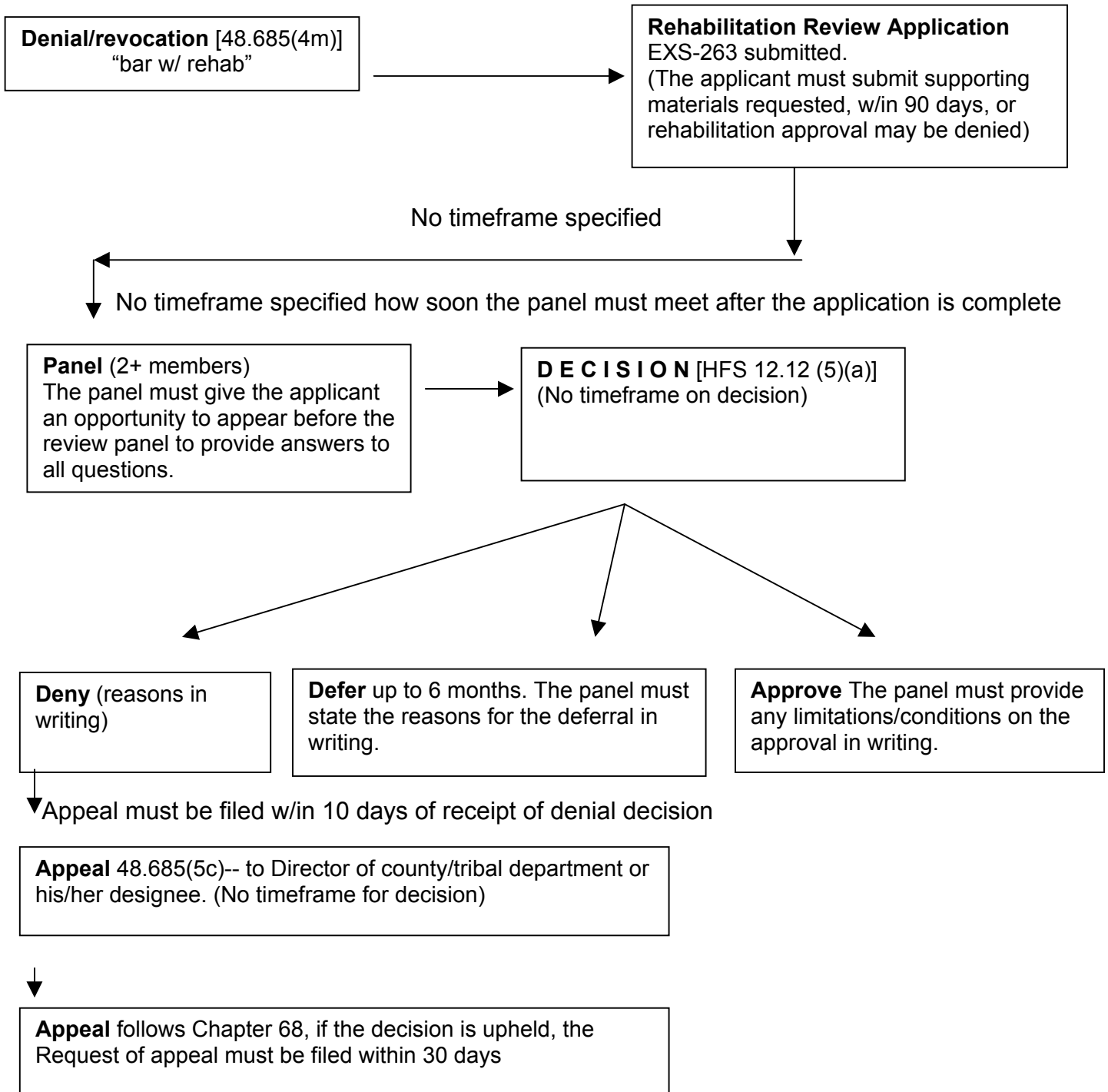
- The receipt of the Rehabilitation Review Application.
- The rehabilitation review results (decision).
- Any conditions or limitations to the rehabilitation approval.
- Any request to transfer rehabilitation and the result.
- Whenever rehabilitation approval has been withdrawn.

The agency must also report any request for appeals to the rehabilitation denial and the results, using the Rehabilitation Review Appeals Report (EXS-265)

The address for the Office of Legal Counsel is:

Office of Legal Counsel, DHFS
P.O. Box 7850
1 W. Wilson, Room 651
Madison, WI 53701-7850.

2.5.7. Rehabilitation Review Flow



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2.5.8. Rehabilitation Approval
Compliance

A person who has had his/her rehabilitation request review application approved shall comply with all conditions and limitations, as may be imposed with that approval. The applicable approving agency or the DWD may deny or rescind a rehabilitation approval of a person when the agency has knowledge the person has done any one or more of the following:

1. The person failed to comply or abide to the conditions or limitations of an approval granted.
2. The person commits another crime, act or offense related to his/her rehabilitation approval or to another reason for a bar.
3. The person knowingly submitted false information or withheld pertinent information relevant to the rehabilitation request that otherwise would or could have affected the review panel's decision to approve the person's rehabilitation.

2.5.9 Violation of Approval

A provider aware of any violation of a rehabilitation approval violation committed by themselves or their employee, contractor or non-client resident 12 years old or older shall inform the certifying agency immediately. If at any time, a certifying agency becomes aware of any provider or their employee, contractor or non-client resident (12 years old and older) who has violated their rehabilitation approval for a reason listed under Rehabilitation Approval Compliance (2.5.8), that certifying agency shall consider whether the new information received is valid and represents a risk of harm to the children in care. If so, they may rescind rehabilitation approval, thereby reinstating the provider's bar to certification. This will impose a temporary regulatory condition that will protect children from potential harm, until any appeals are exhausted. If the new information does not represent a risk of harm to children, the certifying agency should work with the certified provider and consider, as necessary, any measures to mitigate the situation, such as appropriate limitations on the certificate.

Any person who has had his/her rehabilitation approval withdrawn may file an appeal of this decision, as described above in the rehabilitation review decision response.

2.5.10. Filing Denials

Each certifying agency shall keep on file a record of each person who is denied certification or whose certification is revoked for reasons under the caregiver background check law.

The Department of Health and Family Services has created a database which includes all licensing, certification and foster home denials and revocations and non-renewals for reasons based on the caregiver background check law. The new database is linked to the system that generates the DHFS report. Certifying agencies must report all denials/revocations based on "bar with rehab" related

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offenses by using CFS-2191 form. The Office of Child Care will enter this information into the new database. This information is included in the background information search.

2.5.11 Scope of Approval

An agency may only grant rehabilitation approval for day care certification for the county for which they are responsible for certifying day care providers.

2.5.12. Request to Transfer Approval

A rehabilitation approval from one agency is transferable to another agency only with the approval of the receiving agency. If the regulatory agency is the DHFS, it shall be the receiving regulatory sub-unit of the department that will decide whether a rehabilitation approval is transferable.

Examples of the above could include, but are not limited to, a rehabilitation approval allowing a person to be a provider or their employee, contractor or non-client resident 12 years old or older by one county is not, unless approved by the other county, transferable to the other county. A rehabilitation approval for the purposes of certification is not transferable to a child caring institution or to a hospital or nursing home.

2.6.0 Denial, Suspension, Revocation and Appeals

Within 60 days after receiving a completed application for certification or re-certification, the county or tribal agency shall either approve or deny the application. If an application is denied, the county or tribal agency shall give the applicant the reasons, in writing, for the denial.

The agency may deny, suspend, revoke, or refuse to renew certification and discontinue payment for care after the certification appeals period has passed, if any of the following apply:

- The provider is not in compliance with certification standards under s. DWD 55.08 or 55.09 as appropriate.
- The provider's references or other community information does not support the provider's declaration that s/he is able to provide an acceptable level of childcare.
- The agency determines there is danger to the health, safety or welfare of the children in care.
- The provider submits false attendance records to the childcare subsidy administrative agency.
- Provider fails to cooperate with the certifying agency.
- The applicant's license or certificate to care for children or adults has been denied or revoked (samples: day or foster care license, etc).
- The provider misrepresents or withholds information.

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- The provider denies the day care certification worker access to the premises to monitor compliance with the certification standards.

If the provider wants to reapply after being denied, revoked or refused to renew due DWD 55, the provider must submit a new application. The certifying agency may refuse to accept a new application for two years after the date of denial, revocation or refusal to renew.

A suspension to a certification can be made when the provider is out of compliance with certification standards and when that provider does not come into compliance within a reasonable amount of time.

A provider whose certification has been revoked twice for noncompliance with the certification standards in s. DWD 55.08 or 55.09 shall be permanently barred from certification.

2.6.1 Communication of
Non-compliance

The certifier must identify to the provider, in writing, the items that are out of compliance and site the rule from the standards and checklist or DWD 55. The certifier should work with the provider to establish a reasonable date the provider must come into compliance. The certifier should use the Non-Compliance Statement and Correction Plan (DES-11548) to facilitate this process.

2.6.2 Possible Action for
Non-compliance

If the provider is not in compliance by the date indicated in the non-compliance statement, the certifier can suspend, revoke, deny, or refuse to renew the provider's certification. The suspension could have the effect of one or both of the following, at the discretion of the child care agency:

1. The childcare agency may stop issuing new authorizations for the childcare provider, until they come back into compliance and the suspension has been lifted.
2. The childcare agency may stop making payments to the provider, until the provider has come back into compliance and the suspension has been lifted.

A written notice to the parent and provider must be given, before a childcare agency stops authorizations or payments to a provider.

If the provider's certificate is suspended and the childcare agency has stopped payments, the provider is no longer eligible for the Child and Adult Care Food Program.

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If the provider's certificate is suspended and the provider does not come back into compliance in a timely manner, the certificate should be revoked. A ten-day notice must be given to the parent and provider when the authorizations are being ended.

2.6.3 Communication of Denial

The denial, revocation, suspension, refusal to renew a certificate, and any limitations made to a certificate must be communicated to the provider in writing, along with information of the provider's right to appeal.

When a negative action is taken by the certifying agency or the provider appeals this decision, this must be communicated timely to the agency that enters the provider information and authorizations onto the Child Care Payment System. This communication must occur, in order for the authorizing worker to take the correct action on the authorization and to update provider information in a timely manner.

2.6.4 Appeal Rights

The provider can appeal any negative action taken by the certifying agency. The appeal may be reviewed by an administrative hearing pursuant to Chapter 68, Stats. The agency should establish a process for appeals in consultation with its Corporation Counsel. **See** appeal process low in 2.6.5.6.

2.6.5 Process of Appeals

The provider has 30 days to make written request for a review of the negative action taken by the certifier. It is the county/tribe's responsibility to review the decision of the certifier within 15 days of the receipt of the provider's written appeal.

2.6.5.1 Initial Appeal

The county/tribe may affirm, reverse or modify the initial determination. The decision must advise the provider of their right to appeal the decision.

2.6.5.2 Administrative Appeal

The provider has 30 days to make a written request to appeal. As described in Ch. 68, Stats., when the written request to appeal has been received, a hearing must take place within 15 days. The provider should receive written notice of the hearing ten days prior to the hearing. An attorney may represent the provider and the county/tribe. Subpoenas may be issued. The county/tribe must provide an impartial decision-maker to decide on the appeal. The decision-maker, acting as a hearing officer, may be an officer, committee, board commission, or governing body who did not participate in the initial decision or the review of that decision.

A record of the hearing must be made and all exhibits must be marked and preserved. Expenses to record the hearing and mark and preserve exhibits are to be paid by the county/tribe.

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The determination from this hearing is the final determination. The determination states the reason of the finding and must be mailed or delivered to the provider within 20 days of the hearing.

2.6.5.3 Judicial Review

As described in Ch. 68 Stats., the provider may request a judicial review within 30 days of the receipt of the final determination. The court may affirm or reverse the final determination or remand to the decision-maker for further proceedings.

A record of the proceeding must be kept at the expense of the provider. If the provider is determined not able to pay by the court, the cost will be paid by the county/tribe.

2.6.5.4 Payment During the
Appeal Process

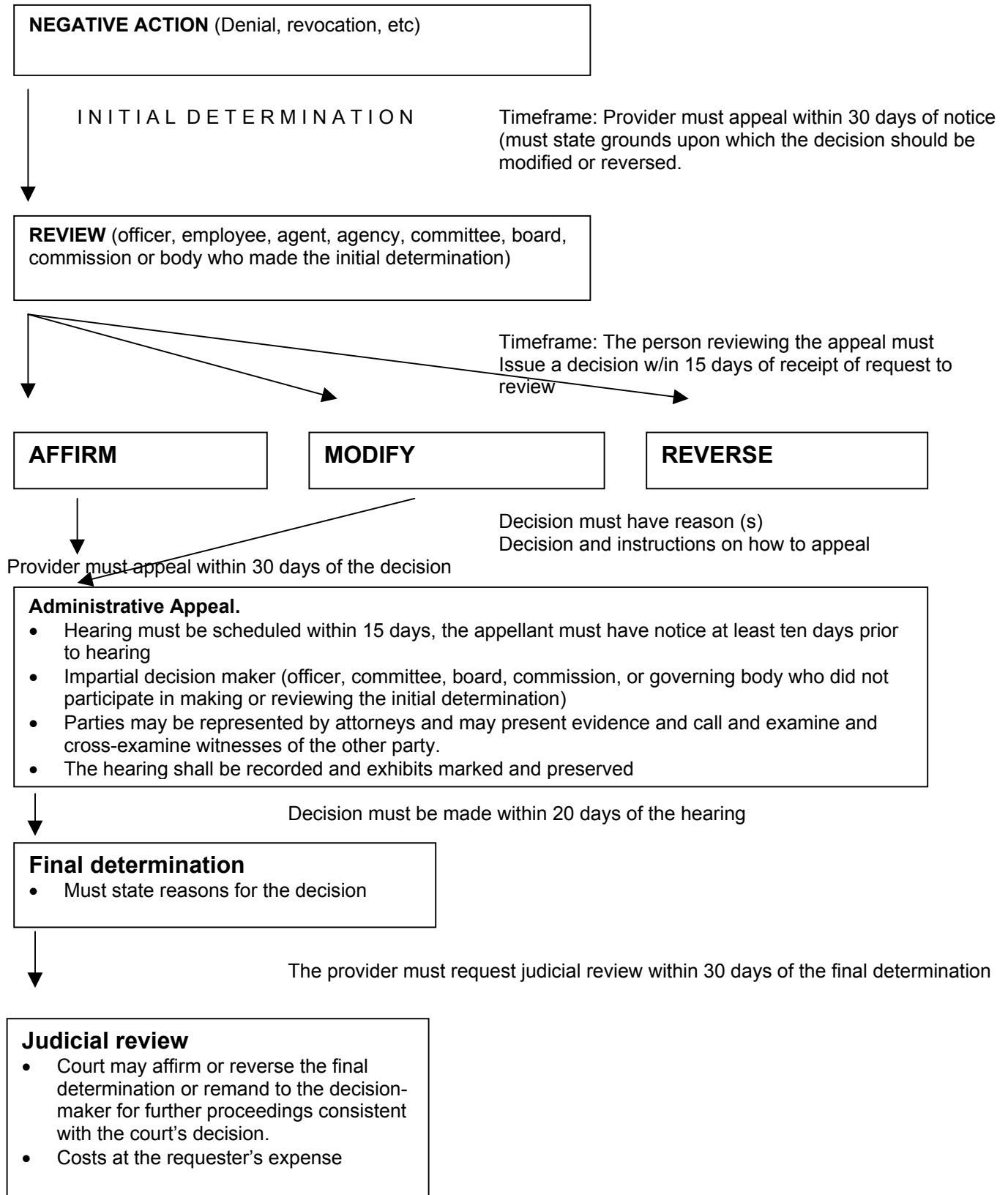
It is the childcare agency's discretion to resume authorization and payment to a provider who has appealed a negative decision to their certification.

Providers are considered regulated, until the appeals period is exhausted. Authorizations and payments may continue during the appeals process. The agency may stop all authorizations and payments, if there are serious violations that may jeopardize the health, safety and wellbeing of the children in care. The agency must have adequate documentation of the violation.

2.6.5.5 Agency Decision
Reversed

If a denial, revocation, suspension, or refusal to renew a certification is reversed, during the appeal process, the certificate must be issued with an effective begin date back to the date of the negative action. If authorizations and or payment to the provider were stopped and the provider was caring for a family that was eligible for the child care subsidy, the child care agency must authorize and make payment to the provider back to the effective begin date on the new certificate. This information needs to be communicated to the child care agency that enters provider information or authorizations onto the Child Care Payment System in a timely manner

2.6.5.6 *Appeal process flow chart*



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2.7.0 Training

A provider must complete 15 hours of county or tribal approved child care training, prior to becoming Regularly Certified. A provider who does not complete 15 hours of approved training can only become Provisionally Certified. The local certifying agency may consider documentation of a person's previous education and training as meeting the training requirement. A provider caring only for related children could be paid only at the provisionally certified rate, even if the provider has completed the required training.

The certifying agency may also require up to five hours of education annually for regularly certified providers. This requirement would be in effect for the following year after initial regular certification.

Approved 15-hour course options may include:

1. Training provided throughout the state by the Wisconsin Technical College System.
2. Training to providers provided by county or tribal agencies.
3. The correspondence course **Early Childhood Education-The Child Care Teacher** through the UW Extension Independent Study. This course is available as an alternative to the classroom experience. For information contact:

UW Extension, Independent Study
432 Lake Street
Madison, WI 53706

If agencies wish to grade the independent course themselves, obtain the Study Guide and materials by contacting:

Madison Education Extension Programs
160 Education Building
1000 Bascom Hall
Madison, WI 53706 (608-263-5140)

4. Other plans for basic training may be approved by the certifying agency.
5. Other agencies may provide training, such as Child Care Resource and Referral agencies.

2.7.1 Content of Training

Certifying agencies have the authority to determine the training content and to approve acceptable training which meets the 15-hour requirement. Training can be offered by various sources, including, but not limited to, technical colleges or child care resource and referral agencies. The following topics must be included in the 15-hour course curriculum for certification training:

1. Interpersonal Relationships (3 hours).

Provider-Child: Positive guidance, modeling, enhancing self-esteem, and competence communicating with children, use of adult authority, helping children learn self control.

Provider-Parent: Cooperation, clear expectations, communication, resolving differences.

Provider's Family: Working out family needs, personal needs and child care responsibilities, attitudes and individual differences .2.7.1 Content of Training

2. Child Growth and Development (3 hours).

Basic developmental characteristics of three age groups: 0-2, 3-5, school-age; including social, emotional, physical, and behavioral characteristics, child guidance.

Importance of reading to children.

Serving children with special needs.

Observing development.

3. Time and Space for Children (2 hours).Scheduling: Routines, Transitions.

Activities: Available and developmentally appropriate activities and equipment.

Indoor and Outdoor Space for Children: Home environments for learning and safety.

4. Health and Safety (3 hours).

Health and Illness: Promoting health; recognizing and responding to illness; identifying and reporting abuse.

Emergencies; How to respond; first aid.

Sanitation: Need for sanitary practices, with emphasis on sanitation in diapering and hand washing.

Nutrition: Food choices; mealtime.

Preventing Sudden Infant Death Syndrome (SIDS).

Car Seats and Seat Belts.

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5. The Business of Family Child Care (2 hours).

Marketing: Positive relationships with parents and the Community.

Finances: Budgeting, setting fees; tax preparation; using the Child Care Food Program.

Record Keeping: Insurance.

6. Working with Other Child Care Professionals and Community Resources (1/2 hour).

7. Review of Certification Rules and Process (1 1/2 hours).

2.8.0 Standards

Providers must meet the following standards:

2.8.1 Home Certification

The standards under “Home” in the Certification Standards and Checklist are set to ensure children:

1. Are cared for in a safe and healthy environment.
2. Have adequate space and equipment for play and rest. “One unblocked exit” means reasonable access to the outside and can include stairways. Standards for in-home providers are selective.
3. Smoking shall be prohibited in any indoor or outdoor area during the hours of childcare.

2.8.2 Emergency

The provider must have a phone, in working order, with a list of emergency phone numbers posted by each phone. The certifying agency may prohibit the use of a cellular phone as a primary phone. If a cellular phone is used as a primary phone, it shall be operational during the hours of childcare.

2.8.3 Health Care

The following health care standards must be met:

1. Immunizations- Complete Immunization Records (DOH-4192) for each child in care must be on file with the provider prior to or within 30 days of enrollment. For clarification, contact the DES Regional Office or local health department.

Effective June 1, 2001, the Wisconsin Student Immunization Law (HFS 144) was changed to include varicella (chicken pox) vaccine. The above immunization form will be updated to include this change.

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More information about immunizations can be found at DHFS Immunization Program web page at <http://www.dhfs.state.wi.us/immunization/index.htm>

2. Physical Exams- The provider must have on file for each child under age five a current health exam by a licensed physician, physician's assistant or Health Check provider. This includes the provider's own children in care. A current physical exam must be on file no later than three months after the child is admitted. A "current" physical exam is:

- For a child under age two, an exam not more than six months prior to admission and a follow-up exam at least once every six months after admission.
- For a child two years of age and older, an exam not more than two years prior to entry.

This requirement does not apply to children five years of age or older who are enrolled in kindergarten or a higher grade in a public or private school.

2.8.3.1 Exemptions

A provider may request an exemption from the physical exam requirement based on the parent's religious belief in exclusive use of prayer or spiritual means for healing. Exemption requests must be submitted, in writing, to the certifying agency. Approval or disapproval must be given to the provider in writing.

2.8.3.2 Provider's Health

A physical exam is not required for the family childcare provider, but a tuberculosis test (TB test) is required. A provider and his/her employees may not be in contact with children in care, if s/he has symptoms of an illness or a communicable disease. S/he may not be in contact with the children, if his/her behavior or mental or physical condition gives reasonable concern for the safety of the children. By signing the certification checklist and the application, the provider attests that s/he meets this health standard.

A TB test is required only once, unless the certifying agency has reason to believe the provider, the provider's employee or someone living in the household may have been exposed to TB. If determined necessary, the certifying agency can request follow up tests. The agency may accept test administered 12 months prior to the application date.

2.8.4 Child Abuse Reports

Certified providers are mandatory reporters of child abuse. They are required by law to report suspected child abuse to the county child protective services or human services department or the police, if a child is in immediate danger.

2.8.5 Transportation

When transported, a child must be seated and properly restrained. This means a seat belt for a child over four years of age or a child

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		safety restraint system for a child under age four. These must be in compliance with s. 347.48(2m) and (4), Stats. If the child is transported, the provider must have a written permission slip signed by a parent or guardian on file. Also, the children should not be left unattended in a vehicle. Note: The Day Care Child Enrollment and Health History form has a transportation authorization included.
2.8.6	Attendance records	Providers must keep a written record of the daily hours of attendance of each child in care, including the arrival and departure time for each child. Attendance records shall be kept for at least three years.
2.8.7	Provider Awake	The provider must be awake at all times during which children in care are awake. After the children in care are asleep for the night, the provider may go to sleep, but must be able to respond to children's needs during the night, if necessary. Third shift care can be paid for hours when the provider is asleep, if all children in care are asleep.
2.8.7.1	16-Hour Rule	A certified provider may care for children for a maximum of 16 hours within any 24 hour period. This applies to providers who are caring for subsidized and/or privately paying children. A provider who exceeds the 16-hour limit may not continue care as an unregulated provider beyond the 16-hour limit. The 16-hour period includes any combination of care by a provider who is both licensed as a family day care provider and certified as a family day care provider.
2.8.8	Other Standards	The following standards were added and/or revised:
2.8.8.1	Home safety	<p>Language was changed regarding home safety. DWD 55.08(2)(c) now reads: "The home shall be free of hazards and items that shall be kept inaccessible to the children and include, but are not limited to, the following:" This means if there are hazards documented in the home that are not listed in the rule, the certifier may order the provider to eliminate the hazards. Examples of these type of cases are steep staircase (gate should be used), broken glass, hanging mini-blind cords, etc.</p> <p>Firearms and ammunition materials must be stored in separate, locked areas that are inaccessible to children.</p> <p>Pets that may pose any risk to the children shall be restricted from indoor and outdoor areas used for childcare.</p>

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2.8.8.2	Outdoor safety	<p>The following new rules apply to outdoor safety:</p> <ul style="list-style-type: none">• Concrete and asphalt are prohibited under climbing equipment, swings and slides• In-ground pools, on-ground pools with rigid sides, hot tubs, and large outdoor trampolines may not be used during hours of child care and shall be inaccessible to children by use of a permanent barrier or other preventive measure. Wading pools may be used, if the water is changed daily and the pool is disinfected daily. “Wading pool” means a shallow pool capable of being dumped to change water and used primarily for small children. This rule does not apply to public pools. The provider may take the children to a public pool for swimming lessons, etc.
2.8.8.3	Water test	<p>The lead test requirement was removed from the water test rule for homes that do not have public water. The reason for repealing this requirement is lead concerns from water are minimal. Water test is still required every two years.</p>
2.8.8.4	Diapering	<p>The provider must change a child’s diaper on an easy wiping surface that is cleaned with soap and water and a disinfectant solution after each use. Recommended disinfectant solution is one tablespoon of chlorine bleach to a quart of water made fresh daily.</p>
2.8.8.5	Superficial wounds	<p>The provider shall clean a child’s superficial wound with soap and water only and protect it with a band-aid or bandage. The provider may not use disinfectants on superficial wounds without written permission from a parent.</p>
2.8.8.6	Group size	<p>A clarification was added to the group size table 55.08(6). The special needs children over 13 will count in the group size.</p>
2.8.8.7	Guidance	<p>New rules were added to this section:</p> <ul style="list-style-type: none">• The provider may not use any discipline that is frightening to the child, including binding or trying to restrict the child’s movement or enclosing the child in a confined space such as a closet, basement, locked room, box, or similar cubicle.• The provider shall provide positive guidance and redirection for the children and set clear limits for the children.• The provider shall help each child develop self-control, self-esteem and respect for the rights of others.• The provider may not use time-out periods that exceed five minutes.• The provider may not punish a child for lapses in toilet training. <p>See 3.7.0 Resources for ways to educate providers on this topic.</p>

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2.8.8.8	Infant/toddler care	<p>New rules for infant/toddler care were added:</p> <ul style="list-style-type: none">• The provider shall respond promptly to a crying infant or toddler's needs.• The caregiver shall provide physical contact and attention to each infant and toddler throughout the day, including holding, rocking, talking to, singing to, and taking on walks inside and outside the home.• The provider shall periodically change the position and location in the room of a non-walking child who is a wake.• Infants and toddlers should be taken outside daily (weather permitting).• The provider shall offer opportunities for a non-walking child who can creep or crawl to move freely in a safe, clean, open, warm, and uncluttered area during each day.• Each infant shall be placed to sleep in his or her back to reduce the risk of SIDS, unless otherwise directed by the child's physician. All sleeping arrangements for children under one year of age shall use firm mattresses and may not use soft bedding materials, such as comforters, pillows, fluffy blankets, or stuffed toys.• A safe crib or playpen shall be available for each child under one year of age to use for napping. Infants should not sleep on couches, adult beds, etc.• A new Infant/Toddler form has been developed and providers are required to have the completed form on file for each child under the age of two. The form number is DWS-13133 and can be ordered from DWD after September 1, 2002. See 3.6.0 "Forms".
2.8.8.9	Parent-provider communication	<p>The provider is required to inform a child's parent of any disciplinary action taken or any injury to the child that occurred during day care hours. The rule does not require this to be done in writing, however, it is a recommended method.</p> <p>The provider must inform the parent in writing whether the premises are covered by a day care liability insurance policy. Most home owners and renters policies do not cover day care related injuries.</p>
2.8.8.10	In-Home Care	<p>When a provider who provides care in the child's home is certified, those certification standards under "Home" in the checklist identified with a star (*) do not apply. Apply the rest of the certification standards during the home inspection.</p>
2.8.8.11	Relative's Care	<p>A provider who is a relative of the child in care is expected to meet the same standards as other providers. Follow all Family Child Care standards.</p> <p>A provider who provides childcare for a relatives only can be Regularly Certified, but can only be reimbursed at a provisional</p>

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rate. When a provider begins to care for children other than relatives, s/he can be reimbursed at the Regularly Certified rate.

2.8.9 Home Visits

The agency must conduct an on-site inspection of any in-home or family childcare provider. This should be done prior to or within 30 days after initial certification. The new rule requires that a home visit is conducted at re-certification and when the provider moves to a new location.

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|-------|-----------------------|--|
| 3.1.0 | Initial Certification | <p>Issue certification for two years, if all certification standards are met. The certification should be for regular certification, if the 15 hour training requirement has been met. It should be for provisional certification, if the training requirement has not been met.</p> <p>Grant renewal upon re-application from a provider who continues to comply with certification standards.</p> |
| 3.2.0 | Activities | Follow these activities: |
| 3.2.1 | Before Certification | <p>Do the following before initial certification and again at renewal unless otherwise noted.</p> <ol style="list-style-type: none">1. Give the interested provider:<ul style="list-style-type: none">• Application (DES 48).• Certification Standards and Checklist• Background Information Disclosure Form (HFS-64). Have this completed by the provider, the provider's employees contractors and all non-client residents 12 years of age and older for initial certification. Required every four years, but can be completed every two years.• Request the names, addresses and phone numbers of references who can attest to the applicant's good character and ability to care for children.• Well-water test information, if a public water supply is not available.• Tuberculosis test information required only once.2. Review the returned application. Be sure to review the following:<ul style="list-style-type: none">• If provider is licensed/certified to care for other children or adults (foster parent, day care license, etc), a statement from that regulatory agency is needed.• Landlord permission (if the care is provided in a rental property)3. Conduct at least one home visit before initial certification or within 30 days after granting certification. Do this to review compliance with certification standards and give copies of the forms the provider must have on file for each child in care.4. Review references by phone or letter, prior to issuing certification.5. Review the completed Background Information Disclosure forms. Request the background check from DOJ and DHFS for each child care provider, employee, contractor, and non- |

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client resident 12 years of age or older. Determine if there is any reason why the provider should not be certified. Offer the Rehabilitation Review process where there is eligibility for it.

This process is required every four years, but the agency can request the BID to be completed more often. The DOJ and DHFS can be completed more often than every four years, if information received through the BID or community indicate another check should be done.

6. Determine compliance with all certification standards.
7. Review abuse and neglect files for the childcare provider, employee, contractor, and non-client residents 12 years of age or older.
8. Issue the two-year certification. Indicate the name, address, type of certification, the valid certification effective dates, and any restrictions.

If you deny certification, give written denial reasons.

9. Set up a provider record for each certified provider.

The provider applicant must:

- Complete the application.
- Complete the Background Information Disclosure form and have all employees, contractors and non-client residents 12 years old age or older complete it.
- Return all other forms to the certifying agency.
- Submit the names, phone numbers and addresses of references.
- Review the standards for certification and complete the checklist, before the home visit.
- Review the standards for certification with the certifier, during the home visit. Keep one copy for a reference tool.

3.2.2 During the 2 Years

The following activities must be done during the two year certification period.

The agency must:

1. Assist the provider in complying in all required areas.
2. Provide additional resources to enhance the quality of the care. This activity is recommended by DWD. The agency may conduct regular site visits or spot checks.

The provider must:

1. Comply with all certification standards.

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2. Establish a file for the children in care, including enrollment information, emergency phone numbers and immunization and health records.
3. Provide care in compliance with the certification standards.

3.2.3 Renewal

Grant renewal upon re-application from a certified provider who continues to comply with all certification standards. Update the provider record. Well-water tests and a review of abuse and neglect files are required upon renewal of certification. It is up to the certifying agency's discretion whether to require reference update at renewal.

The certifying agency may grant an extension to the certification for up to 60 days from the expiration date of the certificate. This can be done, if the agency or the provider is late in completing the renewal process and the agency believes the provider remains in compliance with certification standards. This would be done so the childcare subsidy would not be interrupted for the parent or the provider. A new certificate must be issued showing the time period of the extension.

3.2.4 Regular Certification

Before regular certification can be granted, the provider must meet all certification standards and have completed at least 15 hours of agency approved training.

Regular Certification is for two years and is issued when all training requirements are met, along with compliance with all other certification standards.

3.2.5 After Certification

After Regular or Provisional Certification, the agency may:

- Provide additional resources and training to the provider to enhance the quality of care.
- Conduct regular site visits or spot checks.

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The provider must:

1. Establish a file for children in care that includes the following:
 - enrollment information
 - immunization form (all children)
 - health form (children under age five)
 - Day Care Intake for Child under two years”
 - Written contract
 - Transportation form (if transportation provided)
 - Authorization to administer medication (if needed)
2. Provide care in compliance with certification standards.

3.2.6 Regional Office Role

The Regional Licensing Office provides information, as requested by the agency, on the status of all licensed childcare providers. County and tribal staff must know which providers are currently licensed.

3.2.7 Conditions on Certification

Give a written statement of provisional or regular certification, such as the Certificate of Approval of Child Care (DES-615-A) to the provider. File a copy in the provider file. If there are exceptions or restrictions on the certificate, this must be in writing. Note: A restriction is a negative action taken by the certifying agency. The certifying agency must inform the provider about his/her rights to appeal the decision.

3.2.8 Statement of Approval

The statement of approval includes:

1. Category of certification, identifying if it is provisional or regular.
2. Provider’s name and address. If in-home care is provided, indicate that information on the certificate.
3. Any restrictions on care. Restrictions may limit:
 - Ages of children in care.
 - Numbers of children to be cared for.
 - Hours during which care is provided.

Impose restrictions, when necessary, to ensure the standard of care is met. Restrictions may be necessary due to:

- A provider’s qualifications.
 - A child’s special needs.
 - Concerns about other standards.
4. Conditions. Certifying agency may impose conditions on the certification. These usually include safety-related issues.

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5. The length of time for which the certification is valid.

Certification acknowledges the provider and the facility meet established standards. If a provider moves to a different home, the provider's qualifications are transferable, but the home must be reassessed at the new location.

If the circumstances of a certificate change, the certificate must be re-issued, indicating the correct information and the effective begin date that reflects the change in circumstance. A change in circumstance could include any of the following: address, certification type, restrictions made to or eliminated from the certification.

3.3.0 Exceptions

Exceptions to a particular certification standard may be granted by the agency. However, the provider must show how the intent of the standard will be met. Carefully evaluate and grant exceptions on a time-limited basis.

Use a more restrictive approval to ensure a particular standard of care is met. Keep a cumulative record of all exceptions in the provider file.

Exceptions to the licensing law cannot be granted by the certifying agency.

3.4.0 Complaints

A complaint means an alleged violation of the certification rules. Investigate any complaint about a certified provider, within ten working days of receipt of the allegation.

Screen the complaint to determine the appropriate unit or agency to conduct the investigation.

Refer child abuse and neglect complaints to the child protective services unit immediately. Refer criminal investigations to law enforcement. Refer complaints about unlicensed providers, who should be licensed, to regional licensing staff, as well as providers caring for too many children.

Investigate complaints that allege violation of the certification standards. When investigation indicates a provider is violating licensing laws, report the finding to the regional licensing office.

3.4.1 Recording Complaints

Complete a Certification Complaint Intake Form (DES-811) or similar form indicating the date, name and address of provider and alleged violation. Do this for every complaint. Record the name, address and phone number of the complainant, unless s/he wishes to remain anonymous.

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Furnish information about the results of a complaint investigation, if the complainant requests it. If s/he wishes to remain anonymous, s/he may call back for the information.

3.4.2. Investigations

Conduct investigations by interviewing the complainant and others. You may also visit the provider's home. Complete a report for each complaint that is investigated. Use a Certification Complaint Investigation Report on Finding/ Recommendations (DES-811A) or a similar form. Include:

1. The date the investigation was completed.
2. A description of the findings and conclusions regarding any noncompliance.

If the findings could be substantiated upon investigation, the complaint has been determined to be true. If upon investigation, the complaint was found to be baseless, the complaint is considered unfounded. If, upon investigation of the complaint, the complaint could not be substantiated, but it cannot be established there was not a violation, the complaint is considered unsubstantiated.

3. Recommendations and actions taken.
4. The name and signature of the person conducting the investigation.

Inform the certified provider of the results of the investigation. File the Certification Complaint Intake and Certification Complaint Investigation Report on Findings/ Recommendations forms in the provider's file.

3.5.0 Provider Records

For both Provisional and Regular Certification files, include the individual provider records which demonstrate compliance with the standards for ability, age and health. Include:

- Application for Certification.
- Background Information Disclosure form and results from the background check, as well as abuse and neglect findings.
- Certification Standards and Checklist.
- Certificate of Approval.
- Any complaint intake and investigation reports.
- Records of exceptions granted and notice of noncompliance issued.
- Summary Assessments, case action sheets or other records which document completion of requirements and agency actions.
- Verification of number of hours of training completed. This is for Regularly Certified providers only.

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- TB test results.
- Well water test results, if no public water supply is available.
- References.
- The Rehabilitation Review decision, where applicable, with the exception of juvenile records and child abuse and neglect findings.

3.5.1 Record Confidentiality

Provider records are considered public records. This includes complaint information (both the complaint and the investigation), criminal history record (except for juvenile records) and any other background information (with the exception of juvenile records, AODA and mental health issues and the details of abuse and neglect investigations and findings). Individuals, providers, parents, reporters, or others can request to view the provider case file.

3.6.0 Forms

DWD has put all childcare forms on a public site to ensure access by all agencies. The address is:

<http://www.dwd.state.wi.us/dwd/forms/default.htm>.

Copies of DWD forms can be ordered from:

Barbara Albrecht
Department of Workforce Development
Division of Economic Support
P.O. Box 7935
Madison, WI 53707-7935
Phone 608-266-8002
Fax 608-267-3240
E-mail **barbara.albrecht@dwd.state.wi.us**

DHFS no longer mails unlimited quantities of forms. The certifying agencies may order one copy of each of their forms and produce copies themselves. The forms can be ordered at:

Department of Health and Family Services
Division of Management and Technology
Attn: Forms Manager
P.O. Box 7850
Madison, WI 53707

DHFS forms include all Caregiver Background Check forms.

The forms can be accessed at DHFS forms site at
http://www.dhfs.state.wi.us/rl_dcfs/FORMS.htm

3.7.0 Resources

The Wisconsin Child Care Information Center (WCCIC)
www.dpi.state.wi.us/ccic/. Phone 1-800-362-7353.

WCCIC is a mail-order lending library and information center serving anyone in Wisconsin working in the field of childcare and early childhood education. WCCIC provides free information

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services, library services and adult learning services to help Wisconsin childcare professionals give the best possible start to Wisconsin's children. CCIC is sponsored by the Office of Child Care, Wisconsin Department of Workforce Development and is administered by the Department of Public Instruction's Reference and Loan Library.

WCCIC has informational materials on several topics related to the new certification rules.

National Association for the Education of Young Children (NAEYC).
www.naeyc.org

The new certification rules include many quality-related rules, such as activities that enhance certain important skills. Also, many new rules were added regarding discipline. NAEYC has many wonderful and inexpensive brochures on these topics. Safe Child Care money could be used for this purpose. On the NAEYC web site, go to "Resources", browse "Catalog" and browse "Brochures".

The following brochures are handy and cost only \$.50:

- A caring place for your infant
- A caring place for your toddler
- Helping children learn self-control
- Love and learn: positive guidance for young children
- So many goodbyes (separation anxiety)
- Toys: tools for learning

3.8.0 Child Care Provider
Certification Automation

The Office of Child Care is working on automating the certification process. The CCPC is a statewide database that will contain information on all certified programs in the state. This database will feed information about certified programs into the Child Care Payment System (CCPS). This eliminates double data entry, because the system will populate most of the required provider fields in the CCPS and assures up-to-date information on certified programs. It will also communicate restrictions, provider status, address changes, etc into the payment system.

This database will be a practical tool for certifying agencies that currently track the certification processes manually. The system will have many features that will help the certifiers do their daily work and give certifying agencies and state agencies access to all certified providers in the state. The system will be able to generate statistical reports on providers, as well as generate mailing labels to all certified programs.